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In re Patent No. 7,296,170	:	
Issue Date: November 13, 2007	:	
Application No 10/764,391	:	DECISION ON PETITION
Filed: January 23, 2004	:	
Attorney Docket No. ZIL-555	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed June 26, 2008, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **DISMISSED**.

Petitioner states that the original Letters Patent was never received.

The Office follows the guidelines set forth in MPEP § 711.03(c) (*see also* "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action (in this case, the Letters Patent), there is a strong presumption that the Office action (Letters Patent) was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Letters Patent was not in fact received. In this regard, the showing required to establish the failure to receive the Letters Patent must consist of the following:

1. a statement from practitioner stating that the Letters Patent was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Letters Patent was not received; and
3. a copy of the docket record where the nonreceived Letters Patent would have been entered had it been received must be attached to and referenced in the practitioner's statement.

The petition is not accompanied by the evidence required to establish nonreceipt of the original Letters Patent. In this regard, petitioner has not [state here what evidence is lacking; e.g., Office records reflect that the Letters Patent was mailed to the address of record at the time which is the

same address cited above. The evidence submitted does not establish nonreceipt of the Letters Patent at that address.

In view of the above, the petition fails to provide the necessary evidence to establish nonreceipt of the Letters of Patent. Accordingly, the petition for issuance of a duplicate Letters Patent under 37 CFR 1.181 cannot be granted at this time. .

If petitioner cannot submit the required evidence to establish nonreceipt of the original Letters Patent or simply does not wish to, petitioner may wish to consider filing a petition under 37 CFR 1.182 requesting issuance of a duplicate Letters Patent and pay the required fee of \$400 without the condition that the fee be refunded if the petition is granted..

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: **(571) 273-8300**
 Attn: Office of Petitions

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.



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Office of Petitions